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DELTA STEWARDSHIP COUNCIL

A California State Agency

July 19, 2016

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RE: Program Environmental Impact Report for the Lower Putah Creek Restoration Project – Upper Reach Program SCH # 2015022022

Dear Mr. Lee:

Thank you for the opportunity to comment on the Program Environmental Impact Report (PEIR) for the Lower Putah Creek Restoration Project - Upper Reach Program, hereafter referred to as the "Upper Reach Program." This program proposes to restore and enhance geomorphic processes and riparian habitat along approximately 24 miles of Putah Creek between the Putah Diversion Dam and the western edge of the Yolo Bypass Wildlife Area in the Yolo Bypass. This effort is being planned by Solano County Water Agency (SCWA), acting as the California Environmental Quality Act (CEQA) lead agency, along with the Lower Putah Creek Coordinating Committee (LPCCC).

As you may know, the Delta Stewardship Council (Council) is a state agency created by the California Legislature through the Delta Reform Act of 2009 to develop and implement a legally enforceable long-term management plan for the Delta and Suisun Marsh. The Delta Plan applies a common sense approach based on the best available science to achieve the coequal goals of protecting and enhancing the Delta ecosystem and providing for a more reliable water supply for California, while protecting and enhancing the unique cultural, recreational, and agricultural values of the Delta as an evolving place.

Delta Plan Consistency

State and local agencies are required to comply with the Council's 14 regulatory policies if their proposed activity is determined to be a "covered action" under the Delta Plan, which includes plans, programs, or projects (as defined by Public Resources Code Section 21065) that would occur, in whole or in part, within the Delta or Suisun Marsh. As part of our coordination role, we encourage consistency of all relevant programs and projects within the Delta and Suisun Marsh, whether or not they are covered actions. According to the Delta Reform Act, it is the

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

state or local agency approving, funding, or carrying out the project that must determine if that project is a “covered action” subject to Delta Plan regulations and, if so, file a certification of consistency with the Delta Plan. Since part of the program area analyzed by the Upper Reach Program includes reaches of Putah Creek within the southern Yolo Bypass (i.e., Reach 17, from Road 106A to Yolo Bypass Wildlife Area; and the downstream portion of Reach 16, from Mace to Road 106A), which is part of the Delta, SCWA should consider whether the Upper Reach Program is a “covered action” under the Delta Plan. Additionally, when SCWA and LPCCC later develop site-specific restoration plans and project-level CEQA documents for Putah Creek improvements within the Delta, initial planning and project design should consider compliance with relevant Delta Plan regulatory policies.

Analysis of Consistency with Delta Plan in PEIR

Council staff requests that the Delta Plan, including its policies and recommendations, be acknowledged in the PEIR’s description of the regulatory setting for each applicable resource section. The PEIR should discuss any inconsistencies between the proposed plan and the Delta Plan, as required by 15125(d) of the CEQA Guidelines. Please note that the CEQA guidelines’ Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulations may result in a finding of significant impact on the environment.

Best Available Science and Adaptive Management

Delta Plan Policy **G P1** (23 CCR Section 5002) states that actions subject to Delta Plan regulations must document use of best available science. Best available science should be consistent with the criteria listed in the table in Appendix 1A of the Delta Plan regulations (<http://deltacouncil.ca.gov/docs/appendix-1a>) , including relevance, inclusiveness, objectivity, transparency and openness, timeliness and peer review.

Delta Plan Policy **G P1** also calls for ecosystem restoration projects to include adequate provisions for implementation of adaptive management, appropriate to the scope of the action. This requirement can be satisfied through the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan regulations (<http://deltacouncil.ca.gov/docs/appendix-1b>) , along with documentation of adequate resources to implement the proposed adaptive management process. The PEIR describes how adaptive management plans, including site-specific performance criteria, will be developed for reach-specific projects implemented under the Upper Reach Program. These site-specific performance criteria should be linked to the objective/goals for the Upper Reach Program. Additionally, adaptive management planning should go beyond standard operations and maintenance procedures in order to be fully consistent with all the requirements outlined in Appendix 1B of the Delta Plan.

Staff from the Delta Science Program can provide consultation to assist in preparation of documentation of use of best available science and adaptive management. Please contact

Darcy Austin (darcy.austin@deltacouncil.ca.gov) of the Delta Science Program to arrange those discussions.

Habitat Restoration

Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must be consistent with Appendix 3 of the Delta Plan regulations. Appendix 3 describes the many ecosystem benefits related to restoring floodplains, which is a major focus of the Upper Reach Program. However, it also cautions that such restoration should include investigation and implementation of Best Management Practices (BMPs) to control methylmercury production and transport since periodic wetting and drying makes these areas prone to methylation of mercury. Methylated mercury is a serious concern because it can bioaccumulate in fish, and in turn become an issue to the health of humans and wildlife that consume these fish. Putah Creek is currently identified on the Central Valley Regional Water Quality Control Board's 303(d) list of impaired waterbodies as exceeding water quality standards for mercury, making management of mercury issues particularly important for the Upper Reach Program.

Delta Plan Policy **ER P3** (23 CCR Section 5007) calls for protecting opportunities to restore habitat, specifically within the six areas (e.g., Yolo Bypass) identified as priority habitat restoration areas (PHRAs) by Appendix 5 of the Delta Plan. In addition to SCWA's Upper Reach Program and the closely related Putah Creek Tidal Restoration Project being led by the Yolo Basin Foundation and the California Department of Water Resources (DWR), there are many other ongoing planning efforts for the Yolo Bypass including: 1) United States Bureau of Reclamation and DWR developing a suite of projects to fulfill requirements under the 2009 National Marine Fisheries Service Biological Opinion; 2) United States Army Corps of Engineers Sacramento River General Reevaluation Report, which is in the process of developing ecosystem restoration and flood risk management alternatives for the lower Sacramento River flood control system, many of which currently focus on potential changes to the Yolo Bypass; and 3) DWR's Sacramento Basin Wide Feasibility Study which currently identifies five potential future scenarios for the Yolo and Sacramento Bypasses integrating flood risk reduction with habitat restoration. We hope that SCWA will evaluate how the Upper Reach Program efforts in the Yolo Bypass will affect these other efforts and work collaboratively with them to ensure that management of the Bypass can achieve multiple objectives including habitat restoration and flood risk management.

Regarding increasing riparian habitat and channel margin habitat, we want you to be aware of a report authored by Council staff and recently endorsed by the Council titled *Improving Habitat along Delta Levees* (the report can be found on our website at <http://deltacouncil.ca.gov/docs/improving-habitats-along-delta-levees-issue-paper>). This report summarizes lessons learned from monitoring reports and through interviews with experts about which habitat designs along levees may provide greater benefits to target native species (with an emphasis on salmon and riparian birds) and provides guidance to ensure that project effectiveness can be better evaluated in the future.

Invasive Species

Nonnative species are a major obstacle to successful restoration because they affect the survival, health, and distribution of native wildlife and plant species. Although there is little chance of eradicating most established nonnative species, management can be designed to reduce their abundance. Delta Plan Policy **ER P5** (23 CCR Section 5009) states, “The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.”

The PEIR describes overall control strategies for different species of invasive vegetation, including use of various manual/mechanical removal techniques and application of specific chemical herbicides. We appreciate this preliminary level of analysis to determine which control methods are appropriate for different weeds and hope that SCWA will continue to build upon this foundation when developing reach-specific restoration plans.

Land Use

Delta Plan Policy **DP P2** (23 CCR Section 5011) states that “water management facilities, ecosystem restoration, and flood management infrastructure must be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence when feasible, considering comments from local agencies and the Delta Protection Commission.”

Much of the habitat restoration along Putah Creek will occur along the margins of actively farmed agricultural land. As such, it will be important to consider how to work with landowners to avoid or minimize impacts to agriculture and keep them engaged in project activities. We recommend that you consider incorporating DWR’s Agriculture and Land Stewardship strategies (<https://agriculturallandstewardship.water.ca.gov/>) which provide guidance for managers of habitat restoration projects, including good neighbor policies and landowner participation options.

Mitigation Measures

Delta Plan Policy **G P1** (23 CCR Section 5002) also requires that actions not exempt from CEQA and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan PEIR or substitute mitigation measures that are equally or more effective. Below are a few Delta Plan PEIR mitigation measures that are commonly applicable to restoration projects.

Delta Plan PEIR’s **Biological Resources Mitigation Measure 4-1** calls for an invasive species management plan to be developed and implemented for any projects that could lead to introduction or facilitation of invasive species establishment. The plan must ensure that invasive plant species and populations are kept below preconstruction abundance and

distribution levels, be based on best available science, and be developed in consultation with Department of Fish and Wildlife and local experts (e.g., UC Davis, California Invasive Plant Council). This mitigation requirement also calls for the plan to include the following elements:

- Nonnative species eradication methods (if eradication is feasible)
- Nonnative species management methods
- Early detection methods
- Notification requirements
- Best management practices for preconstruction, construction, and post construction periods
- Monitoring, remedial actions and reporting requirements
- Provisions for updating the target species list over the lifetime of the project as new invasive species become potential threats to the integrity of the local ecosystems

Agricultural and Forestry Resources Mitigation Measure 7-1 in the Delta Plan PEIR calls for projects that result in permanent conversion of farmland to preserve in perpetuity other farmland through acquisition of an agricultural conservation easement, or through contribution of funds to a land trust or other entity qualified to preserve farmland in perpetuity (at a target acreage ratio of 1:1).

Final Remarks

Overall, we are supportive of SCWA's objective to improve habitat along lower Putah Creek and enhance salmon migratory and rearing habitat. If you need any clarification regarding our comments, I encourage you to contact Daniel Huang at daniel.huang@deltacouncil.ca.gov or 916-445-5339.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council